

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN JOSE DIVISION

4 FACEBOOK, INC.,) CV-08-3468-JF
5)
6 PLAINTIFF,) SAN JOSE, CALIFORNIA
7)
8 VS.)
9) NOVEMBER 7, 2008
STUDIVZ, LTD, ET AL,)
10)
11 DEFENDANT.) PAGES 1-5
12)
13 _____)

14
15 TRANSCRIPT OF PROCEEDINGS
16 BEFORE THE HONORABLE JEREMY FOGEL
17 UNITED STATES DISTRICT JUDGE
18

19 A P P E A R A N C E S:

20 FOR THE PLAINTIFF: ORRICK, HERRINGTON & SUTCLIFEE
21 FACEBOOK BY: ANNETTE HURST
22 WARRINGTON PARKER
23 THE ORRICK BUILDING
24 405 HOWARD STREET
25 SAN FRANCISCO , CA 94105

FOR THE DEFENDANT: GREENBERG GLUSKER
STUDIVZ BY: STEPHEN SMITH
HOLTZBRINCK NETWORKS 1900 AVENUE OF THE STARS
HOLTZBRINCK VENTURES SUITE 2100
LOS ANGELES, CA 90067

OFFICIAL COURT REPORTER: SUMMER CLANTON, CSR,
CERTIFICATE NUMBER 13185

1 SAN JOSE, CALIFORNIA

NOVEMBER 7, 2008

2 P R O C E E D I N G S

3 (WHEREUPON, COURT CONVENED AND THE
4 FOLLOWING PROCEEDINGS WERE HELD:)

5 THE COURT: FACEBOOK VERSUS STUDIVZ,
6 LIMITED.

7 MS. HURST: GOOD MORNING, YOUR HONOR.

8 ANNETTE HURST AND WARRINGTON PARKER FROM
9 ORRICK HERRINGTON & SUTCLIFFE.

10 MR. SMITH: GOOD MORNING, YOUR HONOR.

11 STEPHEN SMITH SPECIALLY APPEARING FOR THE
12 DEFENDANTS STUDIVZ LIMITED, HOLTZBRINCK NETWORKS
13 GMBH, AND HOLTZBRINCK VENTURES, GMBH.

14 THE COURT: IS THERE A MOTION SET? OH,
15 I'M SORRY -- I SEE FROM MY NOTES THERE IS A MOTION
16 SET FOR FEBRUARY 13TH.

17 MR. SMITH: YES, YOUR HONOR.

18 THE COURT: AND THAT GOES TO THE COURT'S
19 JURISDICTION OVER THE CASE AND THE DEFENDANTS?

20 MS. HURST: JUST OVER THE PARTIES; YES,
21 YOUR HONOR.

22 THE COURT: RIGHT.

23 IS THERE ANYTHING THAT CAN BE DONE BEFORE
24 THAT MOTION IS DETERMINED?

25 MS. HURST: YES, YOUR HONOR.

1 WE'VE SERVED DISCOVERY, AND IT IS OUR VIEW
2 THAT THAT SHOULD PROCEED IN THE MEANTIME,
3 PARTICULARLY IN THE NINTH CIRCUIT AND ITS VIEW THAT
4 WE WOULD BE ENTITLED TO JURISDICTIONAL DISCOVERY.

5 WE'VE BEEN MEETING AND CONFERRING
6 REGARDING THE SCOPE OF PROTECTIVE ORDER ISSUES AND
7 I THINK WE'VE COME TO AT LEAST SOME INITIAL
8 AGREEMENT ON THAT, I HOPE, HERE THIS MORNING.

9 AND YOUR HONOR, WE WOULD LIKE TO SET
10 DATES IN THIS CASE BECAUSE WE'RE CONCERNED ABOUT A
11 PATTERN OF STALLING, IF YOU WILL; SO RESPECTFULLY,
12 WE WOULD REQUEST THAT THE COURT SET DATES.

13 IF THE DEFENDANTS ARE SUCCESSFUL IN
14 GETTING THEMSELVES DISMISSED, THOSE DATES WOULD
15 BECOME MOOT, BUT WE WOULD LIKE TO KEEP THE CASE
16 MOVING FORWARD IN THE MEANTIME.

17 THE COURT: OKAY.

18 WELL, APART FROM THE QUESTION OF WHETHER
19 THE COURT WILL ULTIMATELY HAVE JURISDICTION, IS THE
20 SCHEDULE PLAINTIFFS PROPOSED REALISTIC?

21 MR. SMITH: ASSUMING OUR MOTIONS TO
22 DISMISS ARE DENIED, YES.

23 THE COURT: OKAY. WITHOUT PREJUDICE TO
24 THAT MOTION, AND CERTAINLY NOT CONCEDING ANYTHING
25 BY THIS, I'LL ADOPT THE DATES THAT PLAINTIFF

1 PROPOSED AND THEN WE CAN SEE WHAT HAPPENS ON THE
2 13TH OF FEBRUARY.

3 SO I WILL SET A CMC TO FOLLOW THE HEARING
4 ON THE MOTION, AND IN THE MEANTIME WE WILL
5 PROVISIONALLY, WITHOUT PREJUDICE, ADOPT PLAINTIFF'S
6 SCHEDULE.

7 MR. SMITH: JUST FOR THE RECORD, I DENY
8 THAT WE WERE STALLING.

9 THE COURT: I CAN'T IMAGINE WHY I WOULD
10 DO THAT -- BUT NO, I UNDERSTAND. AND OBVIOUSLY, IF
11 YOU HAVE A FOREIGN CORPORATION, THERE'S ISSUES
12 ABOUT THAT.

13 MS. HURST: THANK YOU, YOUR HONOR.

14 MR. SMITH: THANK YOU VERY MUCH
15 YOUR HONOR.

16 (WHEREUPON, THE PROCEEDINGS IN THIS
17 MATTER WERE CONCLUDED.)

1 STATE OF CALIFORNIA)
2) SS:
3 COUNTY OF SANTA CLARA)
4

5 I, THE UNDERSIGNED OFFICIAL COURT
6 REPORTER OF THE UNITED STATES DISTRICT COURT FOR
7 THE NORTHERN DISTRICT OF CALIFORNIA, 280 SOUTH
8 FIRST STREET, SAN JOSE, CALIFORNIA, DO HEREBY
9 CERTIFY:

10 THAT THE FOREGOING TRANSCRIPT,
11 CERTIFICATE INCLUSIVE, CONSTITUTES A TRUE, FULL AND
12 CORRECT TRANSCRIPT OF MY SHORTHAND NOTES TAKEN AS
13 SUCH OFFICIAL COURT REPORTER OF THE PROCEEDINGS
14 HEREINBEFORE ENTITLED AND REDUCED BY COMPUTER-AIDED
15 TRANSCRIPTION TO THE BEST OF MY ABILITY.

16
17 { _____ }

18 SUMMER A. CLANTON

19 OFFICIAL REPORTER, CSR NO. 13185
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